

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RYAN THOMPSON,

Plaintiff,

v.

JOSHUA WILSBACH, et. al.,

Defendants.

CASE NO. C05-211-MJP

ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL

This matter comes before the Court on Plaintiff's letter requesting an attorney, which the Court construes as a motion for appointment of counsel. The Court, having considered the motion and the balance of the record, does hereby find and ORDER:

(1) There is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983. *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981). Although the Court, under 28 U.S.C. § 1915(e)(1), can request counsel to represent a party proceeding *in forma pauperis*, the Court may do so only in exceptional circumstances. *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986); *Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984). A finding of exceptional circumstances requires an evaluation of both the likelihood of success on the merits and the ability of the plaintiff to articulate his claims *pro se* in light of the complexity of the legal issues involved. *Wilborn*, 789 F.2d at 1331. Neither factor is dispositive and both must be viewed together before

1 reaching a decision on request for counsel. *Id.*

2 In his complaint, Plaintiff alleges that his right to inmate safety was violated when
3 a corrections officer called him a rapist. The “rapist” label allegedly caused other
4 inmates to ridicule and torment him and caused several fights during which plaintiff got
5 seriously hurt. Furthermore, Plaintiff alleges that the remaining defendants failed to take
6 any action to protect him.

7 The Court, in its discretion, determines that Plaintiff has not demonstrated that his
8 case involves exceptional circumstances which would warrant appointment of counsel at
9 the present time. Plaintiff has neither demonstrated a likelihood of success on the
10 merits, nor shown he is unable to articulate his claims *pro se*, in light of the complexity
11 of the legal issues.

12 (2) Accordingly, Plaintiff’s Motion for appointment of counsel (Dkt. #14) is
13 DENIED.

14 (3) The Clerk is directed to send a copy of this Order to Plaintiff and to the
15 Honorable Marsha J. Pechman

16 DATED this 22nd day June, 2005

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19 MONICA J. BENTON
20 United States Magistrate Judge
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